

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO. 25 OF 2015

Shri. Ashok Premraj Bafna & Ors.

.....Appellants

: V/S :

The Nashik Merchants Co-op Bank Ltd.

.....Respondent

\* \* \* \* \*

Mr. B.S. Nayak i/by. Ms. Lalita H. Panchakshari, Advocate for the appellants.

\* \* \* \* \*

**Coram :- Smt. R.P. SondurBaldota, J.**

**10<sup>th</sup> September, 2015.**

**P.C. :-**

1). This Appeal is to challenge the order dated 9<sup>th</sup> February, 2015 passed by the Principal District Judge, Nashik on the application of the appellant filed under Section 34 of the Arbitration and Conciliation Act, 1996 against arbitral award dated 4<sup>th</sup> January, 2010.

2). The challenge of the appellant to the arbitral award was on three grounds, firstly that the appellant was denied an opportunity of hearing and as such, there was violation of the principles of natural

justice, secondly that the Arbitral Tribunal did not have territorial jurisdiction to decide the dispute, and thirdly that, the respondent had played fraud upon the appellant and thirdly the arbitral award was against the public policy.

3). The impugned order has considered each contention of the appellant and rejected the same with reasons. Admittedly, after filing their written statement, the appellants did not attend the arbitration proceedings and therefore the arbitral award came to be passed on considering the evidence brought by the respondent before the learned Arbitral Tribunal. Mr. Nayak, the learned Advocate appearing for the appellant submits that, though the appellants were absent on the relevant date, the learned Arbitrator ought to have adjourned the matter so as to give a chance to the appellants to appear on the next date of the arbitration proceedings. There can be no substance in the submission advanced. An adjournment in such circumstances, can only be a concession entirely at the discretion of the Arbitrator. It is not a right to be demanded. In any case, the appellant does not even set out any reason anywhere on record for remaining absent before the Arbitral Tribunal.

4). As regards the jurisdiction, the appellant contends that the entire transaction of loan had taken place at Pune and therefore the

Arbitral Tribunal at Nashik did not have jurisdiction. Mr. Nayak, submits by referring to the Notification of appointment of arbitrator, that the arbitrator had solely, based on that Notification, assumed jurisdiction to decide the proceedings. From the impugned order, it is seen that the act of sanction of the loan had taken place at Nashik, several documents had been addressed to the respondent at its principal office at Nashik. These aspects have been considered in paras-12 and 13 of the impugned order. The factual aspects discussed in the two paras are not disputed. Hence, there can be no substance in the second contention either.

5). As regards the fraud alleged to have been played by the respondent on the appellant, the allegations in the written statement are without any particulars whatsoever. The allegations being absolutely vague, the same have been rightly rejected to uphold the arbitral award. In the circumstances, the Arbitration Appeal is dismissed.

**(SMT. R.P. SONDURBALDOTA, J)**

Rane

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(sr. no.10)  
Thursday,10.9.2015

## **CERTIFICATE**

Certified to be true and correct copy of the original signed order.